

CHAPTER 8 Introduction to the Final EIR

8.1 CEQA REQUIREMENTS

Before approving a project, the California Environmental Quality Act (CEQA) requires the Lead Agency to prepare and certify a Final Environmental Impact Report (Final EIR). The contents of a Final EIR are specified in CEQA Guidelines Section 15132, which states that:

The Final EIR shall consist of:

- (a) The Draft EIR or a revision of the Draft EIR.
- (b) Comments and recommendations received on the Draft EIR either verbatim or in summary.
- (c) A list of persons, organizations, and public agencies commenting on the Draft EIR.
- (d) The responses of the Lead Agency to significant environmental points raised in the review and consultation process.
- (e) Any other information added by the Lead Agency.

The Lead Agency (the City of Huntington Beach) must also provide each public agency that commented on the Draft EIR (DEIR) with a copy of the City's response to those comments at least ten days before certifying the Final EIR (FEIR). In addition, the City may also provide an opportunity for members of the public to review the FEIR prior to certification, though this is not a requirement of CEQA.

8.2 PUBLIC REVIEW PROCESS

The DEIR for the Beach and Ellis Mixed-Use Project was circulated for review and comment by the public, agencies, and organizations for a 45-day public review period that began on September 9, 2011, and concluded on October 24, 2011. A public information meeting to receive comments on the adequacy of the DEIR was held on October 6, 2011. In addition to five verbal comments from individuals that were received at the public meeting, seven comment letters were received during the review period from four state departments, one private organization, and two individuals.

8.3 CONTENTS AND ORGANIZATION OF THE FINAL EIR

This Final EIR is composed of three volumes. They are as follows:

Volume I **Draft EIR**—This volume describes the existing environmental conditions in the project area and in the vicinity of the project, and analyzes potential impacts on those conditions due to the proposed project; identifies mitigation measures that could avoid or reduce the magnitude of significant impacts; evaluates cumulative impacts that would be caused by the project in combination with other future projects or growth that could occur in the region; analyzes growth-inducing impacts; and provides a full evaluation of the alternatives to the proposed project that could eliminate, reduce, or avoid project-related impacts. The DEIR is incorporated by reference into the FEIR.

- Volume II** **Draft EIR Appendices**—This volume includes supporting technical data used in the preparation of the DEIR. No text changes were made to the Technical Appendices in preparation of the FEIR.
- Volume III** **Final EIR (Responses to Comments)**—This volume contains an explanation of the format and content of the DEIR; a complete list of all persons, organizations, and public agencies that commented on the DEIR; copies of the comment letters received by the City of Huntington Beach (lead agency) on the proposed project; and the Lead Agency’s responses to these comments. As stated above, the DEIR is incorporated by reference into the FEIR.

8.4 USE OF THE FINAL EIR

Pursuant to CEQA Guidelines Sections 15088(a) and 15088(b), the lead agency must evaluate comments on environmental issues received from persons who reviewed the DEIR and must prepare written responses. The FEIR allows the public and the City of Huntington Beach an opportunity to review the response to comments, revisions to the DEIR, and other components of the EIR, such as the Mitigation Monitoring and Reporting Program (MMRP), prior to the City’s decision on the project. The FEIR serves as the environmental document to support approval of the proposed project, either in whole or in part.

After completing the FEIR, and before approving the project, the Lead Agency must make the following three certifications as required by CEQA Guidelines Section 15090:

- That the FEIR has been completed in compliance with CEQA
- That the FEIR was presented to the decision-making body of the Lead Agency, and that the decision-making body reviewed and considered the information in the Final EIR prior to approving the project
- That the FEIR reflects the Lead Agency’s independent judgment and analysis

Pursuant to CEQA Guidelines Section 15091(a), if an EIR that has been certified for a project identifies one or more significant environmental effects, the lead agency must adopt “Findings of Fact.” For each significant impact, the lead agency must make one of the following findings:

1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the EIR.
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
3. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

Each finding must be accompanied by a brief explanation of the rationale for the finding. In addition, pursuant to CEQA Guidelines Section 15091(d), the agency must adopt, in conjunction with the findings, a program for reporting on or monitoring the changes that it has either required in the project or made a condition of approval to avoid or substantially lessen environmental effects. These measures

must be fully enforceable through permit conditions, agreements, or other measures. This program is referred to as the Mitigation Monitoring and Reporting Program.

Additionally, pursuant to CEQA Guidelines Section 15093(b), when a Lead Agency approves a project that would result in significant and unavoidable impacts that are identified in the FEIR, but are not avoided or substantially lessened, the agency must state in writing its reasons for supporting the approved action. The Statement of Overriding Considerations must be supported by substantial evidence in the record, including the FEIR. However, pursuant to CEQA Guidelines Section 21904(a)(2), if a prior EIR has been prepared and certified for a program, plan, policy, or ordinance, and the lead agency makes a finding of overriding consideration pursuant to CEQA Guidelines Section 21081(b), the lead agency for a later project that uses a tiered EIR from the program, plan, policy, or ordinance may incorporate by reference that finding of overriding consideration if all of the following conditions are met:

- A. The lead agency determines that the project's significant impacts on the environment are not greater than or different from those identified in the prior environmental impact report
- B. The lead agency incorporates into the later project all the applicable mitigation measures identified by the prior EIR
- C. The prior finding of overriding considerations was not based on a determination that mitigation measures should be identified and approved in a subsequent environmental review
- D. The prior EIR was certified not more than three years before the findings are made pursuant to CEQA Guidelines Section 21081 for the later project
- E. The lead agency has determined that the mitigation measures or alternatives found to be infeasible in the prior EIR pursuant to CEQA Guidelines Section 21081(a) remain infeasible based on the criteria set forth in that section

Because the project could result in four significant and unavoidable impacts (one project-specific and three cumulative), that are the same or less than the findings of the certified Beach and Edinger Corridors Specific Plan (BECSP) Program EIR from which the proposed project was tiered (as elaborated on in DEIR Chapter 1 [Introduction]), and all the conditions described above have been met, the City of Huntington Beach could incorporate by reference the finding of overriding consideration for the BECSP EIR.

